
THE RULE OF STRICT LIABILITY AND ABSOLUTE LIABILITY IN INDIA: A COMPARATIVE ANALYSIS

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ABSTRACT

The concept of absolute and strict liability presents a clarifying image of distinction between what could be referred to as fault and no-fault liability. The strict liability is referred to as the possession of a dangerous substance on the person's own property which in normal everyday life could be regarded as non-natural use of land. The escape of the dangerous or hazardous thing could be the embark on the occurrence of strict liability. The Origin of strict liability is seen to be associated with the case of Rylands V. Fletcher¹. The absolute liability is a legal principle in which an individual or a whole entity could be held responsible for an act which caused harm or damage because of their actions notwithstanding of the intent, negligence or fault. The inception of the absolute liability is seen with the occurrence of the landmark case of M.C. Mehta v. Union of India². Both the liabilities reiterate on the responsibility without negligence, but the absolute liability has the complete uphold for making the individual or the entity liable for the hazardous acts occurred. This article focuses on the correlation between strict liability and absolute liabilities. It also embodies the judgments of the judges present in the respective cases. It also tells us about the nature of both strict and absolute liability.

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¹ Ryland V. Fletcher (1868) LR 3 HL 330

² M C Mehta V. Union of India AIR 1987 SC 965

Meaning Of Strict Liability

Strict Liability as we came across makes an individual or entity accountable for the harm or damage caused by their act irrespective of the intent or negligence. The inception of strict liability is seen with the landmarked case of Ryland v. Fletcher³ in which the court held that if someone keeps a hazardous thing at their land which in normal day to day life could be deemed as artificial use of land and the hazardous thing escapes the property of the defendant then the individual or the entity is to be held liable for the act. Amidst these circumstances there lies one of the most crucial aspects and that is the harm to be caused. Only the escape and possession of the dangerous or hazardous thing do not amount to the occurrence of strict liability escape of that thing commences the principle of strict liability. The Strict liability rule also foresees the maxim of prima facie (at first sight) which means that if the court holds the view that the person has suffered from a damage or harm cause of the act of plaintiff then it could be said that the case was seen at first sight also named as the prima facie.

Maxims Related to Strict Liability

- ***Sic utere tuo ut alienum non laedas-*** it says that the property should be used in such a way as not to injure others. In depth it could be said that one has all the rights to use his or her property in whatever way, but it should be done responsibly as it should not cause a reason to harm or injure others. If it's seen that the individual is using the property which causes damage to others, he or she could be held liable irrespective of the intent or negligence.
- ***Ubi jus ibi remedium-*** it says that where there is a right there is a remedy for it. Extensively it could be said that if a person's legal right is violated he or she has all the rights to invoke the jurisdiction of the court seeking for the legal remedy and it duress's the court to provide the legal remedy even if there wasn't any intention to the act done by the person.
- ***Res ipsa loquitur-*** Its says that the thing speaks for itself. This legal principle applies when the accident wouldn't have occurred without negligence, and the defendant had control over

³ Ryland V. Fletcher (1868) LR 3 HL 330

the situation. Also, it's always not necessary that there should be evidence's of being negligent mere cases of the obvious state could also make it act.

- ***Damnum sine injuria***- this says damages without any legal injury.in this no legal right is violated but there's an actual physical damage suffered. Also, *damnum sine injuria* is not actionable as it merely causes any violation of legal rights.
- ***Injuria sine damnum***-this says injury without any damage. In depth's it could be referred to as the violation of a legal right without causing any actual loss or harm, but the act is still actionable under the law.

Need for The Strict Liability

There are certain activities that could be too dangerous to prove fault. This could be keeping explosives, wild animals, or storage of hazardous chemicals. It also makes sure that the victims are provided with remedy if suffered through damages. It also ensures that if the person benefits from the storage or possession of hazardous substances, he or she also should be aware of the risk he or she might have to face under the rule of strict liability.

Meaning of Absolute Liability

Absolute liability which means that the entity or individual is held liable wholly liable for the act done by them. The damages are to be paid irrespective of the intent, negligence, or the precautions taken. Absolute liability is based upon the foundations of strict liability while also addressing the limitations to it. There was always a need for a law like this cause the damages that affects the community on large scale's wasn't really seen as important and cause of which it gave an outset to the landmark case of *M.C. Mehta v. Union of India*⁴.The judgment came out to be – That the industries would be held completely liable for the act done which caused damage irrespective of

⁴ M C Mehta V. Union of India AIR 1987 SC 965

the intent ,precautions taken and this law was to be called as absolute liability which was also stricter than the earlier laws. The adoption of absolute liability proved to be a good law governing and protecting both the citizens of the country as well as the environment. There's also a resemblance between the strict and absolute liability as both consist of a dangerous thing, its escape and damages to be caused.

Maxims Related to Absolute Liability

- ***Sic utere tuo ut alienum non laedas***-This says that the property should be used in a way so that it does not injure others. Let's say that the industries dealing with hazardous materials or substances should operate in such a way that it does not amount to damage to individuals or communities living in that area.

- ***Ubi jus Ibi remedium***- This says that where there is a right there's always a legal remedy.

It says that if an individual's right is violated, he or she has all the right to invoke on the doors of the court to seek legal remedy for the damage caused to them. For eg – the violation of article (21) that includes right to life was violated during the case of M.C Mehta v. Union of India⁵.

- ***Res ipsa loquitur***- This says that the thing speaks for itself. In depth, it could be said that when there's damage caused by the industries dealing with the hazardous substances and it causes damage, there's no need to prove the fault. It aligns with the concept of “no defence.”
- ***Salus populi suprema lex***- this says that the welfare of the people is the supreme law.

While ensuring industrial growth, it's also necessary to look after the welfare of the citizens of the country.it also says that the developments regarding the industries should be done in such a way which is also parallel to the welfare of the public.

⁵ M C Mehta V. Union of India AIR 1987 SC 965

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Need For Absolute Liability

As we know, the development of industries is important but it's also necessary to take all the important precautions which make the development a quality development without damaging the environment or the individuals. The imposition of absolute liability prioritizes the welfare of people amidst the rapid industrial growth and technological advancements. The two incidents that make a good example of the importance of welfare of people and the environment would be The Bhopal Gas Tragedy and the Oleum Gas Spill.

Nexus between Strict liability and Absolute Liability

The Nexus Between the Strict Liability and the absolute liability is that both the liabilities are grounded under the same concept of an individual or a whole entity being held responsible for the acts cause of which the other person or an entity suffers damages or harm. Both the liabilities are responsible for rendering a person liable for the act irrespective of the intent or negligence.

Under Strict Liability: *Rylands v. Fletcher*⁶ lord Cairns said that- "The person who, for his own purposes, brings on his lands and collects and keep there anything likely to do mischief if it escapes, must keep it in at his peril; and if he does not do so, he is prima facie answerable for all the damage which is the natural consequence of its escapes".

⁶ Ryland V. Fletcher (1868) LR 3 HL 330

Under Absolute Liability: Mehta v. Union of India Chief Justice P.N Bhagwati said that- “We are of the view that an enterprise that is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of persons working in the factory and residing in the surroundings areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken.”

Cases on Strict Liability and Absolute Liability

M.C. Mehta v. Union of India (1987):

Background:

Around the Mid-Morning, a heart-wrenching event took place in the densely populated area of Delhi. An oleum gas leak took place in the Shriram industry leading to the mass spread of oleum gas all over that area, leading to large scale fatalities. The factory dealt with various hazardous chemicals such as caustic soda, chlorine, hydrochloric acid, Sulfuric acid, Alum, Anhydrous sodium sulphate. M.C. Mehta filed the case under Sec32 because the oleum gas leak was a violation of Art.21 that says right to life and personal liberty. During 1985 there were possibilities of dangers of major leaks from the plant of Shriram after what a committee was set up known as The Manmohan Singh Committee. The committee comprised of shri Manmohan Singh as the chairman, Professor P. Khanna, Dr. Sharma and Shri P.R. Gharekhan. A report was submitted shortly after detailed inspection of the Shriram's caustic soda plant. While there was a pendency in the case filed. The tragic incident of oleum gas leak took place compensations were filed by both Delhi legal aid and advice board and Delhi bar association. The supreme court addressed these issues as a threat to the constitutional validity of the industries being operated in densely populated areas.

Facts Of the Case:

Oleum gas:

Oleum gas is a highly concentrated form of sulfuric acid that contains free sulphur trioxide. It's very corrosive and can release sulphur trioxide and its vapours which are dangerous or hazardous to nature and people.

Industry Name:

The name of the industry is Shriram food and fertilizers industries located in Delhi. The industries dealt with hazardous materials such as sulphur trioxide, alum hydrochloric acid, etc.

About The Incident:

The inauspicious incident took place on 4th of December 1985 at Kirti Nagar, Delhi, which is a densely populated area. There were possibilities of danger at the Shriram industries and during this period a committee was formed which was named as the Manmohan Singh committee. The Manmohan Singh committee was a precautionary committee that was set up to look after the industries and its impact on the environment as well as the citizens. The oleum gas leak took place around mid-evening when the main storage tank of oleum gas suffered a rupture. The rupture was caused by corrosion and weakening of storage tank structure, which was not properly maintained. A connector pipe that was attached to the tank also suffered a rupture cause of which the gas started to spread rapidly. The spread of gas was too rapid to think about the preventive measures as oleum gas is a highly reactive gas once exposed to air it releases SO₃ gas which is a highly toxic gas.

Legal Principles Laid Down in M.C. Mehta v. Union of India

- **Principle of Absolute Liability:** It says that the entity or the complete enterprise would be held liable if holding a hazardous substance and if it causes damage irrespective of the intent or the fault. No defences are available in the absolute liability such as – act of God, third party fault, or absence of negligence etc.
- **Deep Pocket Principle:** It simply says that when the harm is accredited is expected that the party with greater financial capability is expected to provide greater share of compensations as the party with greater financial capacity can pay more because they can afford it.

- **Non-Delegable Duty:** It says that a business owner cannot escape liability if it contracts duties out to the performance of an independent contractor. Certain duties are considered so important or essential that even though a business owner may contract these duties to a third party, it remains liable. For e.g.- hospitals with its patients, employers with its employees and business owners with its business invitees.
- **Expansion Of Art.21:** After the oleum gas leak, the Art.21 expanded and included right to clean, safe and healthy environment, right to health and industrial safety as for the betterment of the environment as well as the development to be carried on with proper safety and protocol options. The gas leak also proved to be a change in overall safety while strengthening the PILs in environmental matters.
- **Public Law Compensation:** Public law compensation is a constitutional remedy in which the courts provide monetary compensation to the injured party for the violation of fundamental rights, especially Art.21.It is usually given against state for its wrongful actions or negligence.
- **Continuing Mandamus:** After the oleum gas leak, the court decided to continue giving mandamus a source of directions to industries to ensure safety and environmental standards. The court supervises the production process and makes sure Art.21 is protected.

Rylands v. Fletcher (1868)

Background: Fletcher made a reservoir by an independent contractor on his own land. He was not aware of the mineshafts that were present under the reservoir. During the construction of the reservoir, the mineshafts were ignored. When the reservoir was filled, the water flew through the old passages of mineshafts into the fletcher's mine. It caused substantial damage. This caused fletcher to sue Ryland irrespective of the fact that the reservoir was made by an independent contractor without any prior knowledge of the mineshafts below the reservoir's main question here came to be that can Ryland be held liable for an act where he had no intent, negligence and also not directly involved in the construction of the reservoir as the reservoir was made by the

independent contractor. The court agreed onto this because it initiated the rule of strict liability which says that- If any person possesses a hazardous substance on his land, which in normal day to day life could be regarded as artificial use of land and also the substance regarded as hazardous escapes the individual's property who possessed it could be held liable for the damage caused.

Facts Of the Case

Ryland's reservoir construction:

Ryland wanted to improve the efficiency of the mill that he owned for what he hired an independent contractor for the construction of the reservoir over his land to hold more water to be used in the processes of his mill.

The Hidden Underground Mineshafts:

Beneath the reservoirs laid mineshafts which were not known to the Ryland and the mineshafts belonged to Fletcher. The mineshafts were not properly filled or sealed over the period. Ryland and his contractor did not have any prior knowledge of the mineshafts lying below the reservoir of his land because the existence of those mineshafts was not obvious.

The Incident:

When the reservoir was filled with water the water burst out into the mineshafts that were not properly filled or sealed and reached to the mines of Fletcher causing extensive level of damage. Fletcher sued Ryland for the damage caused but Ryland claimed that he was unaware of the existence of the mineshafts below his reservoir but the court held Ryland liable as per the rule of strict liability applying onto the case.

Legal:

Fletcher sued Ryland in the court for the damage caused to his mines because of the water that flowed through the mineshafts belonging to Fletcher. Ryland argued that he did not have a prior knowledge of the mineshafts; he was not negligent of the act, and the contractor was independent and not his employees.

Legal Principles Laid Down in Ryland's V. Flechter (1868)

Dangerous Thing: It says that any substance that could be referred to as hazardous or highly dangerous in the ordinary course of nature and is in possession of an individual, then he or she could be held liable if the substance escapes.

Non-Natural Use of Land: It says that liability arises when there is a non-natural use of land. by non-natural use of land we mean that anything that could be regarded as not a substance that is possessed by a person on normal basis and every day-to-day life.

The Escape: It says that the escape of the hazardous thing is the most essential factor that is responsible for the application of strict liability. If there's no escape, the party could not be held liable for just the storage of the hazardous substance.

Defences To Strict Liability:

Act Of God: It means that if the damage is unforeseeable and is caused by the natural events like heavy rainfall, floods etc.

Act Of Stranger: It Says if a third party is involved cause of which the damage is caused, and the party don't have any control over the third party.

Plaintiff's Own Fault: It says that if the damage is caused by the plaintiff on his own and it damages him, then he cannot make the defendant liable for the damage caused.

Statutory Authority: It says that if activity which caused damage is done by the authorized authority, then it could not be held liable for it.

Consent: It says that if the damage was caused but it was based on a consent of mutual basis then no party can sue the other party for the damage caused because of the escape of the hazardous thing.

Bhopal Gas Tragedy (1984)

Background: On the night of December 2nd, 1984 forty-two tons of a toxic chemical called Methyl Isocyanate leaked from the pesticide plant owned and run by Union Carbide India limited (UCIL) in Bhopal, Madhya Pradesh. The incident occurred because a leakage in storage tanks and toxic gas was released into the atmosphere. Due to financial loss suffered by the company, there was a cut in the budget for the maintenance of the plant. Also, there were several systems that were either not working or shut down. Also, due to the financial crises there were inadequate

training operations. There were signs of not proper precautionary measures as well as poor safety culture. The plant was situated in the densely populated area of Bhopal with a low level of income settlement. It was one of the reasons for mass deaths caused by the densely populated area.

Facts Of the Case:

- **Date And Location:**

DATE: Occurred on the night of December 2–3, 1984.

Location: Union Carbide India Limited (UCIL) pesticide plant, Bhopal, Madhya Pradesh.

- **Chemicals Involved:** The gas that was involved in this tragedy was called Methyl Isocyanate, which is a highly toxic and harmful gas for the environment as well as for the people.
- **Cause Of the Leak:** Water entered MIC storage Tank E610, leading to an uncontrollable exothermic chemical reaction. In the exothermic reactions, the heat is released and as it was a massive plant the gas was released of so high pressure that it caused a leak which got mixed up into the atmosphere.
- **The Impact on Humans:** This Gas leak caused immediate 3000-5000 deaths which over time reached a long-term impact of about 10000-15000 deaths. This horrific tragedy came

to be one of the biggest tragedies of the country having severe mental distress over the people of the state as well as the country.

- **Legal Impact:** This case led to the evolution of the absolute liability rule. It also led to the acceptance of right to protection of environment under art21. It also led to shift focus from just the rapid industrial growth to the growth of industries while also keeping in mind its impact on society.

Ponting v. Noakes (1894)

Background: The background of this case revolves around the circumstances in which the plaintiff owned a horse on his land which was adjoined to his neighbour's land. The defendant's land was comprised of shrubs that were poisonous in nature. The poisonous shrubs were entirely on the defendant's property and were not anyway out it.but one day the horses while grazing as on usual days leaned and crossed over the boundary separating the two adjoining lands. Then the horse ate the poisonous shrub ultimately leading to its death. Now the plaintiff sued the defendant cause of the death of his horse. The plaintiff believed that the defendant should compensate him because the plants that were planted on his land were poisonous and argued based on strict liability because he said that the defendant kept something dangerous on his land.

Facts Of the Case:

- **The Extending Over of Horse:** The horse leaned over the boundary that was separating the two adjoining lands of the plaintiff and defendant while grazing around. The horse did not physically enter the defendant's property; it just leaned over his head reaching towards the shrubs planted on the defendant's property.
- **The Plant:** The hazardous plant that caused the death of horse is regarded to the vegetation including the tree well known as Yew tree. This species of plant is toxic to horses as well as other grazing animals. Also, this plant was entirely within the boundaries of the defendant's land and not leaning over to the plaintiff's boundary.

- **The Incident:** The horse belonged to the plaintiff's and one day while grazing leaned over to the adjoining land of the defendant's property. The horse did not physically cross over the boundary; it just leaned his head over to the defendant's land. The horse while grazing ate the poisonous plant that came to be known as Yew tree known to be poisonous to horses as well as other grazing animals cause of feeding upon the plant the horse died. Later, the plaintiff sued the defendant claiming that the presence of the dangerous thing as being referred to the plant comes under one of the essentials of the strict liability.
- **Legal Impact:** This case clearly stated that if the damage is caused to the plaintiff when the wrong was on the side of himself such as trespassing or intentionally or non intentionally doing the wrongs, then the individual cannot ask for holding the other party liable. Thus, also the horse leaning over to the land of defendants made it a trespass which on its own is a crime. It also stated that it's the owner's responsibility for the actions of their animals causing damage cause once there's a damage occurred then it would be none other than the owner to be held liable.

Conclusion

Taken together, these developments illustrate that, there is a need to care of the welfare of the people as well as the environment as we saw in the cases of Bhopal gas tragedy as well as the M.C. Mehta v. Union Of India⁷ cases both of these cases in some way lead to the damage caused at a catastrophic large scale to both people as well as the environment. Both liabilities don't need to prove negligence or intent, or faultlessness. These liabilities work on the principle of making the party liable, which caused the damage caused by the possession of hazardous substances. Strict and absolute liability both contribute to making legal, social, and political impact over society. The legal impact of these liabilities is that- it promotes awareness regarding the dangerous activities as well as helps to ensure the safety of individuals from the harm that could be caused by possession of these harmful substances. It also raises the standard of safety among individuals or entities; it ensures that the government works for the welfare of people ensuring safety from these activities. It also ensures to make the cases regarding strict and absolute liability simplified rather than making them over exemplified or complicated. The political impact caused by the strict and

⁷ M C Mehta V. Union of India AIR 1987 SC 965

absolute liability is- that it draws more attention of the government towards the causes regarding environmental protection, industrial hazards, and product safety it ensures that the government strengthens the framework. It also changes the government's notion from making reactive laws to preventive laws, ensuring complete safeguards of both individuals as well as the environment and industries. It also ensures public perception of being secure within the environment they are living in and encourages public trust over the governance being carried out. Politicians use the major incidents caused as a way of ensuring public safety through commitments which encourages them to make swift actions. The social impact of the strict and absolute liability are- that it ensures that the government works with a pace that could make rapid developments while keeping in mind the welfare of people.it also ensures less recklessness in the industries behaviour of processing.these major incidents ensure that the industries keep in mind that they could be held liable even without the presence of negligence or fault which ensures products quality safety. It also ensures the victims suffering from large scale damages to be compensated and ensures the people feel secure within the presence of legal laws. There could also be instances where the person could be held liable without having a fault referred to as "No-Fault Liability". Also, there are certain defences within strict liability which can prevent an individual being held liable for an act, while absolute liability holds no expectations or defences. As the time passes by, these laws develop by time leading to changes as per the cases continue to unfold different dimensions of these liabilities.